

### **Remarks and Arguments**


Claims 1-6 were provisionally rejected under the judicially-created doctrine of obviousness-type double patenting as being unpatentable over claims 1-9 of copending Application No. 10/079,271. Claims 18 and 21-23 were rejected under the judicially-created doctrine of obviousness-type double patenting as being unpatentable over claims 1-9 of copending Application No. 10/079,271 in view of PCT International Publication Number WO 97/27325 ("Van Ness"). Claims 7-17 and 19-20 were rejected under the judicially-created doctrine of obviousness-type double patenting as being unpatentable over claims 1-9 of copending Application No. 10/079,271 in view of the Nucleic Acids Research article by Sauer ("Sauer").

Each of the outstanding rejections against the claims of the present application has in common an obviousness-type double patenting basis. To address each of these rejections, a properly-signed terminal disclaimer is being submitted herewith that makes an appropriate disclaimer with regard to copending Application No. 10/079,271. The appropriate disclaimer fee under 37 C.F.R. §1.20(d) is also enclosed herewith. With the submission of this terminal disclaimer, all of the remaining claim rejections are believed to have been obviated. Reconsideration of Claims 1-23 is therefore respectfully requested.

In light of the foregoing remarks, and the accompanying terminal disclaimer, all of the claims of the application are now believed to be in condition for allowance, and such allowance is hereby respectfully requested. If there are any remaining issues to be resolved for this application, the examiner is invited to call the undersigned. The

Commissioner is hereby authorized to charge any additional fees due for the filing of this paper to applicants' attorneys' Deposit Account No. 02-3038.

Respectfully submitted

  
Philip L. Conrad, Esq. Reg. No. 34,567  
KUDIRKA & JOBSE, LLP  
Customer Number 021127  
Tel: (617) 367-4600 Fax: (617) 367-4656

Date: November 10, 2003